

21 MAY 1947

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of  
WITNESSES

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21 MAY 1947

I N D E X  
of  
EXHIBITS

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22,649

Wednesday, 21 May 1947

INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Court House of the Tribunal  
War Ministry Building  
Tokyo, Japan

The Tribunal met, pursuant to adjournment,  
at 0930.

**Appearances:**

12 For the Tribunal, same as before with the  
13 exception of: HONORABLE JUSTICE ROLING, Member from  
14 the Netherlands, now sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese .

to English interpretation was made by the Language Section, IMTIE.)

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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now in session.

THE PRESIDENT: Colonel Smirnov.

COLONEL SMIRNOV: Your Honor, we checked the question which was raised yesterday by the defense concerning the scales of the map of the frontier of the Mongolian Peoples' Republic in the Nomongan area attached to the Molotov-TOGO Agreement, exhibit 767. We established, as you truly stated yesterday, that to the agreement there was attached a map with the scale of one to two hundred thousand. When a copy to be submitted to the Tribunal was made from this map, the scale was reduced to one to one million.

MR. FURNESS: If the Court please, I believe that we should have testimony on that rather than merely statement by the prosecutor.

THE PRESIDENT: It is an obvious deduction from the exhibit, itself. But if it is sufficiently serious enough for you, Major Furness, we will make it the subject of evidence.

MR. FURNESS: It is, your Honor. We intend to attack the validity of that map; and I further point out that the map which is attached to the original exhibit is in color and is not a photostatic copy of anything.

1                   COLONEL SMIRNOV: Secondly, your Honor, the  
2 map submitted by me yesterday was taken from exhibit  
3 767 and is appendix to this exhibit among other matters,  
4 exhibit 766. This map wasn't used by the Soviet  
5 prosecution in their phase, and I don't know, there-  
6 fore, whether the copies of this map were served upon the  
7 defense. However, if the defense desires so, the  
8 copies of the map will be processed and served upon  
9 them in the shortest possible time.  
10

11                   May I ask several questions of the witness,  
12 your Honor?

13                   THE PRESIDENT: You may.  
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HASHIMOTO

CROSS

1           GUN HASHIMOTO, recalled as a witness  
2           on behalf of the defense, having previously  
3           been sworn, resumed the stand and testified  
4           as follows:

## CROSS-EXAMINATION (Continued)

BY COLONEL SMIRNOV:

7           Q    On page 12 of your affidavit, No. 974, you  
8           give a quotation, taking it into inverted commas, the  
9           quotation from the so-called Basic Principles of the  
10           Settlement of the Nomongan Incident of May 31. All  
11           this is quoted by you from memory?

12           A    The gist was written by me from memory, but  
13           the original existed at that time. But it was not  
14           in existence at the time the affidavit was prepared,  
15           and I have heard that this document burned with others  
16           at the time of termination of the war.

17           Q    I ask you to answer to this question yes or  
18           no to save the time. Have you inserted this quotation  
19           in your affidavit from memory?

20           A    Yes.

21           Q    In your affidavit 1478, you give two quota-  
22           tions, taking it into inverted commas, from the order  
23           of the Imperial Headquarters of August 30, 1939, and  
24           from other order of September 3, 1939. Did you give  
25           both these quotations also from memory?

HASHIMOTO

CROSS

1 A Yes.

2 Q Are you absolutely sure of your memory  
3 after eight years have passed?

4 A Yes, I have every confidence in my memory.

5 Q Having such sharp memory, can't you tell me  
6 whether the following statement was contained in the  
7 general principles:

8 "...in order to accomplish this purpose, we  
9 can invade the Soviet territory for a short time or  
10 entice Soviet soldiers into the Manchurian territory  
11 and let them stay there. In this case we must take all  
12 possible measures to leave no bodies of our killed and  
13 wounded on Soviet territory and on the other hand try  
14 every means to seize bodies of their killed or cap-  
15 tured prisoners of war."

16 A I do not think that such a statement was  
17 included.

18 Q What air force units participated in the  
19 Khalkhin-Gol area fighting from the Japanese side?

20 I ask you what air force units participated  
21 from the Japanese side in fighting in the Nomongan area?

22 A It consisted of fighter units, bomber units,  
23 and reconnaissance units.

24 Q Wasn't it a Second Air Force group?

25 A It was the Second Air Corps. But it wasn't

HASHIMOTO

CROSS

1 called an army corps.

2 Q That is correct. How many planes did it have?

3 A I do not recall the exact figure. I do not  
4 positively recall the figure.

5 Q Was it not 450 planes?

6 A I think that is a little bit too much.

7 Q Can't you tell the approximate number?

8 A In my recollection, approximately one to two  
9 hundred.

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1       Q    What is your estimation of the Japanese losses  
2 in the period from May up to September?

3           THE RUSSIAN MONITOR: In the Nomongan area.

4       A    At that time I knew, but I do not have any  
5 recollection of the figure at the present time.

6       Q    At any rate the 23d Division was almost  
7 completely annihilated, wasn't it so?

8       A    From that it might possibly be estimated at  
9 around 10,000, but I cannot state the figures with  
10 any confidence at the present time.

11      Q    Was the fate of the 7th Division the same?

12      A    I think the losses of the 7th Division were  
13 smaller than the losses of the 23d Division.

14      Q    Did the command of the Kwantung Army plan to  
15 transfer another three divisions to the area of  
16 fighting by the end of August?

17      A    Yes.

18      Q    Will it be correct to say that the Commander  
19 of the Kwantung Army, General UEDA, was relieved of  
20 his post in connection with the Nomongan area incident?

21      A    Yes.

22      Q    In your affidavit you state that as the result  
23 of the events of the Nomongan area General UEDA was in  
24 an awkward position: Can't you explain? What do you mean  
25 by this "awkward position"?

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HASHIMOTO

CROSS

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23 of the events of the Nomongan area General UEDA was in  
24 an awkward position: Can't you explain? What do you mean  
25 by this "awkward position"?

HASHIMOTO

## CROSS

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1       A    I don't think it could be said that it was  
2       unfavorable. I mean to say that his position became  
3       difficult. I stated that his position became difficult  
4       because a stop order came from the Imperial General  
5       Headquarters after preparations had been made to send  
6       three divisions into the fighting in order to take  
7       an offensive.

8 COLONEL SMIRNOV: That is all, your Honor. I  
9 have no questions.

10 MR. FURNESS: If your Honor please, before  
11 redirect examination starts we would like to have  
12 marked for identification the paper from which the  
13 prosecutor read yesterday, and the paper from which  
14 he read today.

15                   COLONEL SMIRNOV: Your Honor, I will gladly  
16 comply with the wish of the defense counsel. I have  
17 a copy of this statement made by Tass in the newspaper  
18 Izvestia, which is certified by the signature of the  
19 chief of the record office of the U.S.S.R., Professor  
20 Maksakov, and which bears the seal upon it. Besides,  
21 I have the English translation of the same.

23 CLERK OF THE COURT: The document, being a  
24 statement by Tass, will be given exhibit No. 2623 for  
25 identification only.

(Whereupon, the document above

H.SHIMOTO

1 referred to, was marked prosecution exhibit  
2 No. 2623 for identification.)

3 MR. FURNESS: I understand that the document  
4 from which the Soviet prosecutor read this morning  
5 was from exhibit 766.

6 COLONEL SHIRNOV: Your Honor, may I tender  
7 the document, which is the statement by Tass, in  
8 evidence?

9 MR. FURNESS: If your Honor please, we object  
10 to the admission of this document on the ground that  
11 it has not been identified by the witness on the  
12 stand.

13 THE PRESIDENT: Objection upheld.

14 MR. FURNESS: If your Honor please, two counsel  
15 wish to conduct redirect examination. First is Mr. BANNO  
16 who is counsel for the defendant ITAGAKI, and who had  
17 charge of obtaining this affidavit. The second is  
18 Mr. Blakeney who is counsel for the defendant TOGO  
19 who signed the TOGO-Molotov agreement which has been  
20 testified about by this witness.

21 It is quite obvious that this witness has  
22 testified as to three subdivisions in this case: First,  
23 the China phase, second, the Changku Feng Incident,  
24 and third, the Nomonhan Incident.

25 Mr. Blakeney has charge of the presentation

H.SHIMOTO

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H.SHIMOTO

1 of the proof in connection with the Nomonhan Incident,  
2 as well as being counsel for the defendant TOGO.

3 THE PRESIDENT: Major Furness, you must conduct  
4 the general redirect examination. What we will do de-  
5 pends upon the result of that. That is the meaning of  
6 Rule 5, as I understand it. If you have nothing to  
7 say in redirect, well, then we will have to consider  
8 this application. But it is a matter of special per-  
9 mission under the rules, unless it peculiarly concerns  
10 a particular accused.

11 MR. FURNESS: If your Honor please, I think  
12 there is a general exception to that rule, and in  
13 fact it was made partially at the request of the  
14 Tribunal; that is, that American counsel should read  
15 the affidavit in English so that the Court could follow  
16 it more easily than having it come over the IBM.

17 THE PRESIDENT: If you were merely reading the  
18 affidavit for counsel -- Mr. BANNO, is it?

19 MR. FURNESS: I remember I--

20 THE PRESIDENT: (Continuing) We might take a  
21 different view. Where Japanese counsel is directly  
22 examining, cannot speak English well, we do prefer  
23 American counsel to read the affidavit in English. We  
24 may have done this here, I don't know.

25 If I recollect rightly you called this witness,

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HASHIMOTO

1 not Mr. BANNO. That may be a misapprehension on my  
2 part. In fact the counsel before you introduced you,  
3 Major Furness, being Mr. Cunningham I think.

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MR. FURNESS: I remember, if your Honor please, and I think the record will bear me out that a general exception was made with the commencement of the China phase, before the commencement of the China phase, at the suggestion of Mr. Lazarus.

THE PRESIDENT: However, if you say that really Mr. BANNO was in charge of this witness and you were merely reading the affidavit there will be no question raised, Mr. Furness; no further question, I mean.

Major Blakeney.

MR. BLAKENEY: I would like to ask leave to reserve my cross-examination until such time as we shall have been provided with copies of the map, allegedly an extra exhibit, 766.

THE PRESIDENT: Do you mean re-examination, Major Blakeney?

MR. BLAKENEY: Yes, sir; re-examination. Yes, sir; I mean re-examination on behalf--

MR. FURNESS: You said "cross."

MR. BLAKENEY: I am sorry.

THE PRESIDENT: Mr. BANNO, what have you to say?

HASHIMOTO

REDIRECT

## 1                   REDIRECT EXAMINATION

2                   BY MR. BANNO:

3                   Q     Yesterday the prosecution put a question  
4     like this: That in August 1939 the headquarters of  
5     the 6th Army was established. With the organization  
6     of this new headquarters was the troop strength in-  
7     creased?

8                   A     Only the headquarters was established.  
9     There was no change in the troop strength.

10                  MR. BANNO: May the witness be shown  
11     exhibit 766, the map attached to 766.

12                  Q     Mr. Witness, can you tell the source of  
13     this map? Are there any indications on the map which  
14     will indicate the source, that is to say, to the  
15     effect that this map had been captured from the Soviet  
16     side by the Yamagata unit and that this was a photo-  
17     stat thereof?

18                  A     The title of this map says that this was  
19     an Outer Mongolian map captured from the Soviet by the  
20     Yamagata unit and from this title I can make the follow-  
21     ing judgment: That this was captured by the Yamagata  
22     unit in the course of the fighting, that the map had  
23     been prepared, had been drawn up by the Outer Mongolian  
24     side, and that following the capture of this map in  
25     the course of the fighting it was utilized by the

HASHIMOTO

REDIRECT

1 Japanese and for that purpose Japanese characters  
2 were written into it; that is, Japanese place names  
3 were written into it.

4 Q And therefore it is clear that the border  
5 line which is set forth on that map was established  
6 in accordance with Soviet views?

7 THE MONITOR: No. Then can we say that the  
8 frontier line drawn on that map was drawn up by the  
9 Soviets?

10 A That is the way I think.

11 MR. BANNO: That is all, your Honor.

12 THE PRESIDENT: I remind you that we have  
13 not been given copies of that map yet. That is  
14 directed to Colonel Smirnov really.

15 MR. BANNO: I wish to state that that has  
16 not been distributed to the defense counsel also.

17 THE PRESIDENT: The Judges have had to use  
18 the copy filed with the Clerk of the Court, Colonel.  
19 Would you undertake to give the Judges copies of the  
20 map?

21 COLONEL SMIRNOV: Your Honor, we will try  
22 to process this map in the shortest possible time but  
23 at the present time the prosecution has only the one  
24 copy of this map and this one copy was filed with the  
25 Tribunal.

HASHIMOTO

1                   THE PRESIDENT: The witness should answer  
2 this question or you should make a contention in  
3 respect of it, Colonel. Does that frontier shown on  
4 exhibit 766 broadly correspond with the frontier  
5 afterwards agreed upon by the Molotov-TOGO Agreement?

6                   COLONEL SMIRNOV: Your Honor, in general  
7 the line which is on the map and shown in exhibit  
8 766 which was captured together with the Yamagata  
9 detachment by the Red Army coincides with the border  
10 line on the map attached to the agreement between  
11 Molotov and TOGO. However, I can't be positive as  
12 to certain details but, in general, these two lines  
13 coincide and this may be easily established by the  
14 comparison.

15                  THE PRESIDENT: We want the witness' answer  
16 and we want him to look at both maps, being those  
17 attach  $\Delta$  to exhibits 766 and 767. The question is,  
18 Witness: Does the frontier shown on those two maps  
19 broadly correspond with the frontier afterwards agreed  
20 upon by the Molotov-TOGO Agreement?

21                  THE WITNESS: The frontier lines on these  
22 two maps generally correspond with each other. One is  
23 the map attached to the agreement, the Molotov-TOGO  
24 Agreement; the other is the map captured by the Yamagata  
25 unit from the Soviet side.

HASHIMOTO

1                   THE PRESIDENT: The frontier shown on the  
2 maps when captured broadly agrees with the frontier  
3 agreed upon between the USSR and Japan, is that so?

4                   COLONEL SMIRNOV: The only difference is  
5 that we insist, your Honor, that this map as shown in  
6 exhibit 766 was captured by the Soviet troops from  
7 the Japanese side.

8                   THE PRESIDENT: We must have the evidence  
9 of the witness. We can have your contentions,  
10 Colonel Smirnov, but without evidence they are worth-  
11 less.

12                  THE WITNESS: It is obvious from the title  
13 on this map that it was a map captured by the Yamagata  
14 unit from the Soviet side and was not a map drawn up  
15 by the Japanese-Manchukuoan side, and the frontier  
16 lines on both maps generally correspond. This front  
17 line is, as I have contended yesterday, not along the  
18 Halkhin River but slightly off the Halkhin River.

19                  THE PRESIDENT: Major Furness.

20                  MR. FURNESS: If the Court please, we ask  
21 that the witness be released on the usual terms and on  
22 a further special term that we be allowed to recall  
23 him when we receive the map which the Soviet prosecutor  
24 has said he would process and deliver to us.

25                  THE PRESIDENT: A Member of the Court desires

HASHEMOTO

1 to know whether the witness can point out on the  
2 map itself why he says it comes from the Russian side.

3 THE WITNESS: The only evidence which so  
4 indicates is the title of the map.

5 THE PRESIDENT: What is there in the title  
6 that indicates it?

7 THE WITNESS: It is my presumption that  
8 the Russians had drawn up the map but it is obvious  
9 from the title of the map that it was captured by the  
10 Yamagata unit during the fighting and that this was a  
11 map made by the Outer Mongolian side.

12 THE PRESIDENT: Is that because the title  
13 on the original map is in Russian?

14 THE WITNESS: I do not say that the original  
15 title was in Russian.

16 MR. FURNESS: If your Honor please, he said  
17 it was captured from the Mongolian side.

18 THE PRESIDENT: Yes, we know. We are under  
19 no misapprehension as to what he said.

20 Read the title.

21 THE WITNESS: An Outer Mongolian map captured  
22 by the Yamagata unit in the course of the fighting.

23 MR. FURNESS: May the witness be released on  
24 the terms which I suggested, your Honor?

25 THE PRESIDENT: He is released on the usual

HASHIMOTO

1 terms.

2 (Whereupon, the witness was excused.)

3 THE PRESIDENT: At this stage I desire to  
4 announce that the second commission issued by the  
5 Court will be taken by the Honorable Mr. Justice  
6 Northcroft. The commission is to take the evidence  
7 in Tokyo of KAGESA, Sadaaki. The commission states  
8 the time and place for the taking of evidence but that  
9 is subject to alteration by the Commissioner. The  
10 order may issue immediately.

11 MR. FURNESS: If your Honor please, we have  
12 a witness who was reserved from a previous phase. We  
13 would like to call him to the stand now since, as we  
14 know, in the past witnesses are sometimes elusive and  
15 when we have them here we like to produce them. His  
16 name is HATANO and he is in the witness' room at this  
17 time.

18 THE PRESIDENT: There appears to be no  
19 objection. Whose witness is he, yours or Mr. BANNO's?

20 Mr. Comyns Carr.

21 MR. COMYNS CARR: Your Honor, might I, before  
22 the witness is sworn, renew the suggestion that this  
23 being a witness to whom we object altogether the time  
24 should be saved of his being sworn and the introductory  
25 particulars taken.

1                   THE PRESIDENT: We can, if we desire,  
2 operate that section of the Charter to which I referred.

3                   MR. ROBERTS: The defense submits that we  
4 would like to have the affidavit in question before  
5 the Court. It is a short affidavit, five pages, and  
6 we consider this witness to be an expert witness on the  
7 situation in China which is a matter gravely at issue  
8 before this Tribunal. His main purpose is to identify  
9 certain declarations which were issued against Japan  
10 in China during certain years, 1932-1935, and these  
11 are the documents which we intend to use for purposes  
12 of the contention of the defense.

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THE PRESIDENT: It may save a lot of time,  
probably would, if we do as Mr. Comyns Carr suggests,  
give our opinion on the admissibility of this pro-  
posed evidence after we hear argument on both sides.  
If you do not accept our decision or, rather, if you  
are dissatisfied, you can formally tender the evi-  
dence later, but time will be saved. Material will  
not be saved because you have done all the process-  
ing you are going to do.

10 MR. ROBERTS: For the purpose of orderly  
11 procedure, I suggest that the document be tendered  
12 and then an objection taken.

13 MR. COMYNS CARR: Your Honor, I entirely  
14 agree with that. What I seek to avoid is the time  
15 in swearing the witness before the document is  
16 tendered and taking his personal particulars. Of  
17 course, the Tribunal must have the document before  
18 it in order to judge of the objection.

19 THE PRESIDENT: In this particular case,  
20 of course, we only lose time, but we are dealing  
21 with others.

23 MR. COMYNS CARR: Yes. May I point out,  
24 your Honor, that this would be in accordance with  
25 the rule made a long time ago by the Tribunal but  
seldom observed, that affidavits should be presented

1 to the Tribunal three days in advance in order to  
2 enable the Tribunal to judge of their materiality.

3 MR. ROBERTS: I believe we could have the  
4 witness sworn and have his name and could save much  
5 time by proceeding in an orderly fashion.

6 THE PRESIDENT: Nothing will be saved in  
7 this case, of course. Everything has been done,  
8 but this discussion may have a very important bear-  
9 ing on other cases.

10 I think a majority of the Court would  
11 like to hear your objection.

12 MR. COMYNS CARR: Your Honor, the objection  
13 to this affidavit is exactly the same as to the affi-  
14 davit of the deponent OTSUKA, which was rejected by  
15 the Tribunal on Monday and withdrawn for redrafting.

16 The first objection, as in that case, is  
17 that the whole subject matter of the affidavit is  
18 irrelevant, dealing with the history of communism  
19 in China and containing, to quote from the Tri-  
20 bunal's ruling at page 21081 of the record, "No  
21 evidence of an actual attack on Japanese nationals  
22 or property by Chinese Communists or any other  
23 Chinese." The nearest it gets to anything of the  
24 kind is an allegation, without documentary support,  
25 that the Chinese Communist Party on various occasions

1 from the 26th of April, 1932, onwards issued declar-  
2 ations of war against Japan. With regard to those,  
3 I would observe, first, that the communist party was  
4 not the government of China and, secondly, that the  
5 dates being all after the original Manchurian Inci-  
6 dent, the first of them while the incident was in  
7 full progress, if there had been a declaration of  
8 war by the Chinese Government, it would have been  
9 justified.

10 The second objection, as in the case of  
11 OTSUKA's evidence, is that the affidavit is  
12 based entirely upon documents not produced or  
13 accounted for in any way, including the alleged  
14 declarations of war and other declarations by the  
15 Chinese Communist Party, and an article by an indi-  
16 vidual, named Mao Tse-Tung, in a newspaper or book.  
17 The rest of it is some assertions of fact described  
18 as history, which there is no reason to suppose  
19 is within the deponent's knowledge and to which he  
20 gives no source of information.

21 THE PRESIDENT: Mr. Roberts, we will hear  
22 you after recess.

23 We will recess for fifteen minutes.

24 (Whereupon, at 1045, a recess was  
25 taken until 1100, after which the proceed-  
ings were resumed as follows:)

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1                   MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3                   THE PRESIDENT: Mr. Roberts.

4                   MR. ROBERTS: In order to reach a decision  
5 as to whether the action taken by Japan in China  
6 was in the nature of aggressive war or, as the  
7 defense contends, was defensive action taken for the  
8 protection of Japanese interests and nationals in  
9 China, it is essential that the Tribunal have a clear  
10 understanding of the conditions that actually existed  
11 in China.

12                  The proposed witness Kenichi, HATANO from  
13 1913 to 1932 worked as a feature newspaper writer  
14 on China problems and particularly served as Peking  
15 special correspondent between 1920 and 1932. From  
16 1932 to 1946 he was a member of the China Affairs  
17 Board in the Foreign Ministry and has written  
18 approximately 20 books in exposition of the situation  
19 existing in China beginning as early as 1918 and  
20 extending as late as 1946.

21                  His qualifications are sufficient to have  
22 him considered as an expert by this Tribunal so that  
23 he may relate the conditions as they actually existed  
24 in China from his personal observations. He is familiar  
25 with the overt acts taken by the Chinese Communist

1 Party against the interests of Japan and was personally  
2 familiar with virtual declarations of war issued by  
3 the Chinese Communist Party in collaboration with  
4 the Comintern which will establish the fact to the  
5 satisfaction of this Tribunal that the Comintern  
6 controlled the Chinese Communist Party for nearly  
7 20 years with the object of creating an anti-Japanese  
8 united front.

9 This witness is also prepared to relate to  
10 this Tribunal through his knowledge of actions taken  
11 by the Chinese Communist Party that it was their  
12 desire that the Government should not be permitted  
13 to make a quick settlement with Japan and was interested  
14 in developing each incident into a protracted war.  
15 Because of his personal knowledge of the situation  
16 in China for a great number of years and of the steps  
17 taken to provoke Japan this witness' testimony is  
18 vital and relevant and should be allowed.

19 The documents referred to in his affidavit  
20 will be identified by the witness as they are matters  
21 within his personal knowledge.

22 In so far as the statement of the prosecutor  
23 that the affidavit is a history of communism, it can  
24 be stated that the history of communism could hardly  
25 be stated in a five-page affidavit. The observations

1 made by Powell and Goette concerning conditions in  
2 China were accepted by the Tribunal in an effort by  
3 the prosecution to show no justification for the  
4 acts of Japan. This witness will give us a factual  
5 account of the conditions as they existed for the  
6 purpose of refuting the statements of the prosecution's  
7 witnesses aforementioned.

8 As to the document referred to by Mao Tse-  
9 Tung, I think that perhaps we ought to touch upon  
10 it when the document is introduced.

11 As to the statement of the prosecutor that  
12 these were not the acts of China, the declarations  
13 that we referred to will show that they are acts of  
14 an independent Chinese-Soviet Government, acting  
15 in concert with the Nationalist Government.

16 MR. COMYNS CARR: Your Honor, an attempt  
17 has been made to establish this deponent as an expert  
18 on the strength of his experiences as a newspaper  
19 correspondent and afterwards as a non-regular member  
20 of various ministries. Having regard to the fact  
21 that the Tribunal declined to treat Mr. Ballantine  
22 as an expert, I need say no more on that point.

23 Comparing him with Mr. Powell, this witness  
24 nowhere purports to relate anything that he personally  
25 saw or anything which he obtained from any named source.

1                   With regard to the documents, my friend  
2                   says the witness is going to identify them, but he  
3                   certainly doesn't do so in the affidavit.

4                   THE PRESIDENT: By a majority the Court  
5                   upholds the objection and rejects the document; but  
6                   if the document is redrafted so as to conform to the  
7                   rules, it will be received so far as it is confined  
8                   to statements of relevant and material facts.

9                   In the hope that such a document will be  
10                   forthcoming the witness is stood down.

11                   MR. ROBERTS: I would like, first, to have  
12                   the witness identify certain documents which it is  
13                   the contention of the defense to offer as exhibits.

14                   THE PRESIDENT: Tender the affidavit and  
15                   all documents referred to therein for identification.  
16                   That will meet the position.

17                   MR. ROBERTS: In that case we will ask that  
18                   the witness be stood down until the affidavit is  
19                   prepared.

20                   THE PRESIDENT: You will want your affidavit  
21                   and the other documents referred to marked for  
22                   identification.

23                   MR. ROBERTS: The book referred to has  
24                   already been marked for identification.

25                   THE PRESIDENT: The affidavit may be marked

1 if you so wish, seeing that we have perused it.

2 MR. ROBERTS: I think that is an excellent  
3 suggestion, and I so offer it.

4 CLERK OF THE COURT: Defense document  
5 1420 will receive exhibit No. 2624 for identification  
6 only.

7 (Whereupon, the document above  
8 referred to was marked defense exhibit  
9 No. 2624 for identification.)

10 MR. ROBERTS: I also understand that the  
11 book is in court, which is defense document 1308,  
12 and I would like to have this marked for identification  
13 at the present time.

14 CLERK OF THE COURT: Defense document 1308  
15 will receive exhibit No. 2625 for identification only.

16 (Whereupon, the document above  
17 referred to was marked defense exhibit  
18 No. 2625 for identification.)

19 MR. FURNESS: Language Section, this is  
20 a running commentary entitled "Non-Aggression Pact."

21 If the Court please, it will be my task  
22 to deal with the allegations made and proof produced  
23 by the prosecution that the Japanese Government refused  
24 to enter into a non-aggression pact with the Union  
25 of Soviet Socialist Republics and that this was

proof of plans for aggressive war by Japan.

1                   In his opening statement, page 7236 and  
2                   7237 of the record, Minister Golunsky said:

3                   " The Japanese Government refused to conclude  
4                   a non-aggression pact with the USSR on the ground  
5                   that disputable questions existed between the USSR  
6                   and Japan and the time had not yet come to conclude  
7                   the pact.

8                   " The Japanese Government paid no attention  
9                   to the argumentation of the Soviet Government that  
10                   the conclusion of the pact would have created favor-  
11                   able ground for solving these disputable questions."

12                   Then, on the basis that any smaller nation  
13                   which fails to agree with this argument of the  
14                   Soviet Union, plans to attack her, Minister Golunsky  
15                   said:

16                   " Such an attitude of the Japanese Government  
17                   has only one meaning. The Japanese Government wanted  
18                   to use the threat of military attack as an argument  
19                   while negotiating on these disputable questions and  
20                   if that threat would not have been effective enough,  
21                   to carry out such an attack."

22                   Having assumed this, it was easy to move  
23                   on, according to the prosecutor, to further and more  
24                   concrete assumptions.

1        "This refusal to sign the pact proves beyond  
2        any doubt that those military preparations which were  
3        started by the Japanese military authorities  
4        immediately after the occupation of Manchuria did  
5        not aim at defense but that the purpose of these  
6        preparations was to turn Manchuria and Korea into a  
7        military base for waging a war of aggression against  
8        the Soviet Union."

9        In order to make this part of our presentation  
10        intelligible, it will be necessary to read a few  
11        sentences already read by the prosecution and in  
12        other instances to summarize very briefly parts of  
13        documents read by them.

14        The first of the documents tendered by the  
15        prosecution was exhibit No. 744 (Prosecution document  
16        No. 2369), an extract from the diary of Litvinov,  
17        then Peoples Commissar for Foreign Affairs for the  
18        Soviet Union, entitled "Talk with YOSHIOKA, Japanese  
19        Foreign Minister over a cup of coffee on December,  
20        1931." The specific day is not specified. I will  
21        read the first part of this document to show that  
22        even three months after the start of the Manchurian  
23        Incident, Russia did not regard it as any threat by  
24        Japan and to show the tentative and informal nature  
25        of the proposal that no official statement from Japan

1                   was expected; only an expression of personal views.

2                   "Mr. Y. thanked for the courtesy and attention  
3                   paid to him during travelling and for breakfast  
4                   arranged for him. I told him that we learnt with  
5                   satisfaction of his having been appointed Minister  
6                   for Foreign Affairs. He had signed the Peking agree-  
7                   ment and in such a way had personally participated  
8                   in laying the foundation of our present relations,  
9                   and, therefore, we were glad that the preservation  
10                   of those relations was then in his hands. The  
11                   preservation of peaceful and friendly relations with  
12                   all our neighbors including Japan is a foundation  
13                   of our foreign policy.

14                   "Mr. Y. replied that he was proud of the  
15                   role he had played in establishing relations with us.

16                   "After his appointment he was not in contact  
17                   with his Government and therefore could not speak  
18                   on its behalf, but he personally was in favor of  
19                   preserving and improving relations with us and there-  
20                   fore he was glad to hear from me of similar intentions  
21                   on our part.

22                   "I concurred with YOSHISAWA, that prior to  
23                   the exchange of opinions with his colleagues in the  
24                   Government he could not make any official statements  
25                   on behalf of the Government, but that his personal

1 "views of relations between our countries were also  
2 valuable. I also concur with Y's supposition of the  
3 possibility and desirability of improving these  
4 relations, and think that it could be achieved by  
5 some new act. We are conducting negotiations with  
6 Poland, are starting negotiations with Finland,  
7 Estonia, Latvia" --

8 THE PRESIDENT: Mr. Comyns Carr.

9 MR. COMYNs CARR: From this point on the  
10 document has already been read except for the last  
sentence on the page.

11 THE PRESIDENT: The last portion.

12 MR. COMYNs CARR: Yes, your Honor, I beg  
13 your pardon. I thought it was all one sentence.  
14 Beginning with the words "He asked whether that  
15 proposal had been made by us before --" That one  
16 had not been read.

17 MR. FURNESS: That is quite true, your Honor,  
18 but before starting this presentation I said that in  
19 order to make it intelligible I would have to either  
20 reread parts of the document read by the prosecution  
21 or summarize them.

22 MR. COMYNs CARR: Your Honor, that would  
23 convert a running commentary into an argument, which,  
24 we submit, this is not the proper time.

1           THE PRESIDENT: We might tolerate a limited  
2 amount of rereading for the sake of being able to  
3 follow the matter intelligently, but where do you  
4 stop, that is the trouble?

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D 1                   MR. FURNESS: I plan only four sentences, your  
u 2 Honor.

d 3                   " We have concluded such pacts with Germany,  
a 4 Lithuania, Turkey, Persia and Afghanistan. The  
& 5 pact with France has been initialled. When these  
w 6 negotiations are completed and the pacts signed, we  
h 7 shall be bound by the pacts of non-aggression with all  
a 8 our neighbors with the exception of Japan.

l 9                   " We consider that this gap should be filled,  
c 10 otherwise there will be a queer situation that Japan  
n 11 will be our only neighbor who has no pact of non-  
12 aggression with us."

13                   I will read from the last part of this docu-  
14 ment in order to show that such a pact had been dis-  
15 cussed before without apparently either side being  
16 accused of aggression and that no official reply was  
17 expected from YOSHISAWA.

18                   I read the last four sentences which have  
19 not been read.

20                   " He" -- YOSHISAWA -- " asked whether that pro-  
21 posal had been made by us before, through HIHOTA, or  
22 comrade Troyanovsky. Comrade Karahan made it clear to  
23 him that in Tokyo in 1928 and even in 1930 there were  
24 conversations on the subject. I added that, of course,  
25 we did not expect to receive an official reply from

1 YOSHISAWA, which we would be forwarded through comrade  
2 Troyanovsky, or HIROTA, but I was interested to know  
3 Mr. YOSHISAWA's personal opinion.

4 "Y. refrained from further talk on that sub-  
5 ject and asked me whether I wanted to forward anything  
6 to Tokyo."

7 The next document tendered by the prosecution  
8 was accepted as evidence as exhibit No. 745 (prosecu-  
9 tion document 2371, page 7719 of the record, a verbal  
10 note delivered by UCHIDA, then Foreign Minister of  
11 Japan, to Troyanovsky, the Soviet Ambassador in Tokyo,  
12 on 13 December 1932. In the part read by the prosecu-  
13 tion, it was indicated that under the basic treaty  
14 between the two states, even without a non-aggression  
15 pact both parties were ready to respect the sover-  
16 eignty of the other and not to violate each others'  
17 border, there were pending questions and while Japan  
18 did not refuse to enter negotiations for a general  
19 pact, it felt that formal negotiations should be  
20 delayed. The reasons are stated in the last part of  
21 the document not read by the prosecution which I shall  
22 now read.

24 I quote from exhibit 745, the last two para-  
25 graphs.

"Perhaps at present it will be preferable to

1 try and achieve the solution of various problems facing  
2 both nations; as to the negotiations which were referred  
3 to, it will be better to wait for a while and take  
4 time until the proper conditions are created. For the  
5 time being it will be of avail if both governments will  
6 confer together on peaceful methods of preventing and  
7 solving locally all sorts of difficulties that may acci-  
8 dentally arise due to the fact that the Japanese and  
9 Soviet troops are stationed so close to one another.  
10 The creation of a Japano-Soviet-Manchurian committee to  
11 prevent border incidents may become one of such means.

12 "The note was delivered to Troyanovsky by  
13 UCHIDA December 13, 1932."

14 The next document tendered by the prosecution  
15 was exhibit 746 (prosecution document 2372) page 7720  
16 of the record, a note delivered by Ambassador Troyanovsky  
17 to Count UCHIDA one month later on 4 January 1933.  
18 Despite the fact that it was the Soviet Government  
19 making a self-serving statement, the prosecution in  
20 offering it said it made clear the true motives of the  
21 Japanese Government in turning down the Soviet's so-  
22 called proposal. I will read a part of the document  
23 not read by the prosecution to show that the Soviet  
24 Government recognized that under the then present con-  
25 ditions controversies between neighboring states were

inevitable and that conclusion of a non-aggression  
1 pact would not settle all such difficulties.

2 I quote the second sentence, the third para-  
3 graph.

4 "The Japanese Government evidently believes  
5 that the conclusion of non-aggression agreements is  
6 pertinent only between two states which have no con-  
7 troversies. Under the conditions of the present  
8 economic and political interdependence between nations  
9 such state of affairs is hardly existing, nor is it  
10 possible, especially between two states which are more  
11 or less close neighbors.

12 "The solution of now existing disputes does  
13 not prevent from breaking out new ones in the future,  
14 particularly if the policy of the state develops along  
15 the line of aggression and extension of its sphere of  
16 influence.

17 "It is noteworthy that the states, whether  
18 close neighbors or no neighbors at all with the Union of  
19 Soviet Socialist Republics, which concluded non-  
20 aggression pacts with it, by no means admitted the  
21 absence of any mutual claims or controversies. Par-  
22 ticularly, the Union of Soviet Socialist Republics quite  
23 recently gave its consent to the conclusion of a non-  
24 aggression pact with a neighboring state, with which it

1 has a disputable border and to which it has well  
2 grounded territorial claims."

3 Attention is called to the fact that in exhibit  
4 745, the verbal note from UCHIDA to Troyanovsky, Japan  
5 proposed the creation of a Japan-Soviet-Manchurian com-  
6 mittee to prevent border incidents, a far more realis-  
7 tic and effective approach toward the prevention of  
8 aggression than the non-aggression pacts mentioned by  
9 Litvinov in exhibit 745 between Soviet Russia, Poland,  
10 Finland, Estonia, Latvia and Lithuania, or with Germany  
11 for that matter, neighboring states with which Soviet  
12 Russia had mutual claims or controversies or with  
13 which it had disputable borders or well-grounded terri-  
14 torial claims.

15 The last document on this subject introduced  
16 into evidence by the prosecution was exhibit 747 (prose-  
17 cution document 2373) page 7727 of the record, a Verbal  
18 Note delivered on February 1933 by order of UCHIDA to  
19 the Counsellor of the Embassy for delivery to the  
20 Soviet Ambassador. Since I believe that the short  
21 excerpt read by the prosecution, appearing on page 7729  
22 of the record, is misleading when removed from its con-  
23 text, I shall read the entire document to show that the  
24 Soviet Government did not then regard Japan as an  
25 aggressor and that the Japanese Government regarded the

1 note delivered to the Soviet Government, exhibit 746,  
2 as a threat not conducive to good relations between the  
3 two countries.

4 I read exhibit 747.

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1                    "The note delivered on January 4 to the Foreign  
2                    minister by the Soviet ambassador in reply to the  
3                    verbal note of December 13 last year presented by the  
4                    Foreign Minister to the ambassador on the question of  
5                    the conclusion of a non-aggression pact between Japan  
6                    and the USSR, which was proposed by the Soviet  
7                    Government, contains an argument based on the mis-  
8                    interpretation of the viewpoint of the Japanese  
9                    Government; besides, it contains expressions hardly  
10                   desirable in view of the interests of the friendly  
11                   relations between both countries. In the course of  
12                   conversation between the Vice-Foreign Minister and  
13                   His Excellency which took place after that the former  
14                   brought this fact to the attention of the Ambassador  
15                   and recommended that the Soviet Government should pay  
16                   its serious attention to it.

17                   "The Japanese government feels it necessary  
18                   to take the advantage of this new opportunity to  
19                   propose that the Soviet Government further deliberate  
20                   this problem.

21                   "In the note of the Soviet government dated  
22                   January 4 it is stated that, "the consistent develop-  
23                   ment of this argument, will inevitably result in the  
24                   complete negation both of the idea of non-aggression  
25                   pacts and those contained in the Kellog-Briand pact,"

1 and that "the Japanese Government evidently believes  
2 that the conclusion of non-aggression agreements is  
3 pertinent only between the two states which have no  
4 controversies." To refute this idea the Japanese  
5 government can only insist upon the Soviet Govern-  
6 ment's thorough deliberation of the statement con-  
7 tained in the verbal note of the Japanese Government  
8 which reads: "To sum up, the formal beginning of the  
9 negotiations between the two governments in this case  
10 seems to be untimely," and "it will be preferable to  
11 try and achieve the solution of various problems  
12 facing both nations: as to the negotiations mentioned  
13 above, it will be better to wait for a while and take  
14 time until the proper conditions are created."

15 "The statement contained in the Soviet note  
16 to the effect that "the Solution of now existing dis-  
17 putes does not prevent from breaking out new ones in  
18 the future, particularly if the policy of the state  
19 develops along the line of aggression and extention  
20 of its sphere of influence," attracted most serious  
21 attention of the Japanese Government.

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1                    "The Japanese Government accepts the expla-  
2                    nation of the Soviet Ambassador to the effect that  
3                    the phrase 'the country' did not imply Japan. Need  
4                    it be said that following the dictates of her constant  
5                    feeling of justice, Japan has no designs of armed  
6                    aggression. Indeed, we must say that in the above verbal  
7                    note the Japanese Government maintained that 'It is  
8                    clear both from the basic agreement between the two  
9                    states and from all that has taken place since the  
10                   conclusion of same, that Japan and the Soviet Union are  
11                   mutually ready to scrupulously respect the sovereign  
12                   rights of one another and punctually refrain from  
13                   any violation of each other's border.'

14                   "It is necessary to add that the Soviet  
15                   Government published the details of the negotiation  
16                   prior to having received an acquiescence of the Japanese  
17                   Government. As a matter of principle the Japanese  
18                   Government had no objections to this being published  
19                   since the Government of the USSR would consider it  
20                   necessary to do so, as Vice-Foreign Minister made  
21                   clear to the Soviet Ambassador. But the fact is that  
22                   the Soviet Government unexpectedly did it though no  
23                   definite agreement of the opinions of both governments  
24                   had been effected as to the time and methods of  
25                   publishing.

1                   "This step on the part of the Soviet Govern-  
2                   ment, contradictory to the international custom, took  
3                   the Japanese Government unawares and it must confess,  
4                   that it finds it difficult to understand what consi-  
5                   derations made the Soviet Government do so.  
6

7                   "Delivered--" I shall not read that last.

8                   Mr. Blakeney will handle the proof relating  
9                   to the conclusion of the Neutrality Pact between Japan  
10                  and Soviet Russia which we contend affirmatively  
11                  disproves the patently untenable contention that  
12                  failure of a smaller state to respond to the persuasion,  
13                  by one means or another, of a larger state to conclude  
14                  a non-aggression pact proves preparation for war by  
15                  the smaller state against the larger. This pact was  
16                  terminated with what Minister Golunsky in his opening  
17                  statement -- page 7264 of the record -- termed "the  
18                  devastating blow of the Red Army against the selected  
19                  Japanese troops concentrated in Manchuria," a blow  
20                  for which, if the prosecution's position is sound,  
21                  the Soviet Union had made no advance preparation  
22                  either in operational plans or in men or in material.

23                  This is marked "Introductory," language section.  
24                  I am not sure you have it.

25                  THE INTERPRETER: Mr. Furness, the running  
commentary was served upon us just about fifteen

1 minutes ago. We are unable to put it on simultaneously.

2 MR. FURNESS: The witness HASHIMOTO, Gun,  
3 has already testified regarding the events in China  
4 just before the Changku Feng Incident, the incident  
5 itself and the border incident along the boundary  
6 between Manchukuo and Outer Mongolia, known as both  
7 the Nomonhan and Khalkhin-Gol incidents.

8 THE PRESIDENT: General Vasiliev.

9 GENERAL VASILIEV: I cannot understand why  
10 my colleague delivers such long speeches. It even  
11 exceeds the limits of an opening statement, and I  
12 believe that he should simply, now, take up the pre-  
13 sentation of evidence, and that corresponds to the  
14 full extent to the usual proceedings.

15 If we leave it as it is now and let the  
16 defense counsel speak at this length, so the prose-  
17 cution will probably be obliged to do the same and  
18 then the whole trial will assume a different form.

19 MR. FURNESS: Your Honor, I plan now to go  
20 into the proof of the Changku Feng Incident. This  
21 is merely introductory, about seven lines more.

22 GENERAL VASILIEV: I expected to hear the  
23 proofs and evidence, but I didn't hear anything  
24 beyond a long speech.

25 THE PRESIDENT: I understand you are going

1 to support your statements by evidence, Major Furness?  
2 In indicating what you propose to introduce and the  
3 purpose of introducing it, you will, of course,  
4 avoid argument as much as possible.

5 MR. FURNESS: I intend to merely indicate  
6 what the document contains and what it is intended  
7 to prove.

8 I shall handle the proof relating to the  
9 Changku Feng or Lake Khasan incident, as it is  
10 apparently known in the Soviet Union, and Mr. Blakeney  
11 will present the proof relating to the Khalkhin-Gol,  
12 Nomonhan Incident.

13 The Indictment charges that both these inci-  
14 dents were aggressive wars against the Soviet Union and  
15 has charged certain of the accused with murder in con-  
16 nection with them.

17 The first document that I offer in evidence  
18 is defense document No. 1508, the additional Treaty  
19 of Peking between China and Russia, dated November 14,  
20 1860. This is the basic treaty relating to the border  
21 and is introduced in order to show the vagueness of  
22 the border lines.

23 I intend to read all of Article I except the  
24 first paragraph.

25 THE PRESIDENT: General Vasiliev.

1 GENERAL VASILIEV: May it please the Tribunal,  
2 I object to the introduction of this document on the  
3 ground of its irrelevance.

The Tribunal have at their disposal the more recent so-called Hunchun Agreement dealing with the same question of the border line and the Khasan Lake area, signed by Russia and China in 1886, exhibits 753 and 2175. The defense do not question the Hunchun Agreement, which the Tribunal already have.

10 In connection with this, the introduction of  
11 the earlier agreements concluded twenty-six years  
12 earlier than the Hunchun Agreement of 1886, would be  
13 of no assistance to the Tribunal and would only burden  
14 the record.

15 THE PRESIDENT: Major Furness.

16                   MR. FURNESS: If your Honor please, the  
17 additional Treaty of Peking is the basic treaty. The  
18 Hunchun Agreement and previous agreement are, I under-  
19 stand, later protocols to that treaty. They in no  
20 way invalidated this treaty or superseded it. They  
21 merely were agreements on particular parts of the  
22 border line and cannot be understood unless this treaty  
23  
24 is introduced.

1 of exhibit 2175 is that the Hunchun Agreement is in  
2 Russian, and that no complete copies were served in  
3 English or Japanese on either defense counsel or the  
4 Tribunal.

5 GENERAL VASILIEV: What has been said by my  
6 colleague now, it is quite another question. All  
7 that concerns the Khassan Lake is clarified in details  
8 by the Hunchun Agreement of 1886.

9 The whole text of this agreement is at the  
10 disposal of the Tribunal, and as far as I know, the  
11 defense plans to introduce this text after the next  
12 two documents, and, therefore, Mr. Furness contra-  
13 dicta himself.

14 MR. FURNESS: I was merely, if your Honor  
15 please, meeting the arguments made by the prosecutor.

16 I wanted to point out that it would do the  
17 Tribunal, except for one Member, little good to look  
18 at exhibit 2175, which was introduced merely because  
19 it had attached to it a map. I do want to point out  
20 that the question at issue is this particular treaty  
21 which we contend is a basic treaty, to which the  
22 other agreements are merely protocols.

23 THE PRESIDENT: The Tribunal overrules the  
24 objection and admits the document.

25 CLERK OF THE COURT: Defense document 1508

1 will receive exhibit No. 2626.

2 (Whereupon, the document above  
3 referred to was marked defense exhibit  
4 No. 2626 and received in evidence.)

5 THE PRESIDENT: We will adjourn until  
6 half-past one.

7 (Whereupon, at 1200, a recess was  
8 taken.)

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## AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at  
1330.

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MARSHAL OF THE COURT: The International  
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Major Furness.

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J. R. FURNESS: I shall read all of Article 1  
of exhibit 2626 except the first paragraph.

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"Henceforward the eastern border between the  
two Empires shall start from the confluence of the  
rivers Schilka and Argun, descend the course of the  
River Amur to the confluence of the river with the  
River Ussuri. The territory on the northern side  
belongs to Russia, and the whole territory on the  
southern side as far as the estuary of the River Ussuri  
belongs to China. Further, from the confluence of the  
River Ussuri to Lake Hsingkai, the border line shall  
follow the rivers Ussuri and Son'gacha. The territory  
on the eastern side of both rivers belongs to Russia,  
and that on the western side to China. From the source  
of the River Son'gacha, the border line between the  
two Empires shall cross Lake Hsingkai, and reach  
directly the estuary of the River Pailing; from the  
estuary of the River Pailing, it shall run along the

1       mountains and reach the estuary of the River Huputu;  
2       and farther from the estuary of the River Huputu, it  
3       shall reach the estuary of the River Tumen, running  
4       along the mountains situated between the River  
5       Hunchun and the sea. The east of the border line all  
6       belongs to Russia, and the west of it all belongs to  
7       China. The point where the border line of both  
8       Empires meets the River Tumen shall be no farther than  
9       twenty Chinese li from its estuary.

10       "Further, in execution of Article 9 of the  
11       Treaty of Tientsin, a map shall be drawn, on which a  
12       red line shall demarcate the border. On that line  
13       shall be inscribed Russian alphabetical letters--"  
14       I shall not read the letters -- "in order to facili-  
15       tate close inspection.

16       "This map shall be signed by the Plenipoten-  
17       tiaries of both Empires and their seals shall be  
18       affixed thereto in testimony.

19       "In case there should be tracts of land  
20       colonized by Chinese subjects, of fishery and hunting  
21       grounds occupied by Chinese subjects, in the waste  
22       territory referred to above, Russia shall not occupy  
23       them simultaneously, and shall permit the Chinese  
24       subjects to engage, as in the past, in fishing and  
25       hunting. After the border marks shall have been

1       mountains and reach the estuary of the River Huputu;  
2       and farther from the estuary of the River Huputu, it  
3       shall reach the estuary of the River Tumen, running  
4       along the mountains situated between the River  
5       Hunchun and the sea. The east of the border line all  
6       belongs to Russia, and the west of it all belongs to  
7       China. The point where the border line of both  
8       Empires meets the River Tumen shall be no farther than  
9       twenty Chinese li from its estuary.

10       "Further, in execution of Article 9 of the  
11       Treaty of Tientsin, a map shall be drawn, on which a  
12       red line shall demarcate the border. On that line  
13       shall be inscribed Russian alphabetical letters--"  
14       I shall not read the letters -- "in order to facili-  
15       tate close inspection.

16       "This map shall be signed by the Plenipoten-  
17       tiaries of both Empires and their seals shall be  
18       affixed thereto in testimony.

19       "In case there should be tracts of land  
20       colonized by Chinese subjects, of fishery and hunting  
21       grounds occupied by Chinese subjects, in the waste  
22       territory referred to above, Russia shall not occupy  
23       them simultaneously, and shall permit the Chinese  
24       subjects to engage, as in the past, in fishing and  
25       hunting. After the border marks shall have been

1 established, they shall not be altered permanently,  
2 nor shall territory in their neighborhood or in any  
3 other place be occupied."

4 The next document I offer in evidence is  
5 defense document No. 1509, the protocol between China  
6 and Russia concerning the border east of Hunchun.  
7 This is offered because it is one of the basic docu-  
8 ments and because it shows the lack of monuments  
9 marking the border.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 1509  
12 will receive exhibit No. 2627.

13 (Whereupon, the document above  
14 referred to was marked defense exhibit  
15 No. 2627 and received in evidence.)

16 MR. FURNESS: I shall read the paragraph  
17 with which the instrument begins, and paragraphs  
18 numbered 1, 2 and 7.

19 "Whereas some of the wooden border marks  
20 established in the eastern border districts of both  
21 countries have been destroyed or lost, and the red  
22 line on the map exchanged in 1861, corresponding to  
23 the eleventh year of Hsienfeng, is very simple and  
24 is much in want of details, causing thereby misunder-  
25 standing one way or the other between both national,

1 officials or not, and thereby leading them gradually  
2 to disputes;

3 "Have appointed as their Plenipotentiaries..."  
4 I shall not read that.

5 "1. The border mark T on the bank of the River  
6 Tumen has been old and rotten, and requires urgent  
7 re-establishment. The monolith T shall be re-established  
8 in accordance with the Protocol of Border Lines  
9 stipulated in 1861, corresponding to the eleventh  
10 year of Hsienfeng. The place for it to be established  
11 shall be the riparian tract of land where ends the  
12 foot of the mountain in that district. The said place  
13 is agreed upon to find itself at a distance of fifteen  
14 Russian li or thirty Chinese li from the sandbar  
15 down in the River Tumen, or over thirteen and a half  
16 Russian li or twenty-seven Chinese li, when measured  
17 in a straight line to the sea.  
18

19 "2. As the distance between the border marks  
20 T and P is very long, it is hereby agreed that an  
21 additional border mark R shall be established on the  
22 border line between Tongolgorod, Russian territory,  
23 and Hunchun, and an additional border mark S on the  
24 line where Achimi, Russian territory, borders on  
25 Hunchun. Further, while upon examination of the  
original map of 1861, the border mark P is found, it

1 is missing in the Protocol of Border Lines, it is now  
2 agreed that it shall be additionally established at  
3 Tashukangtzu to the southwest of the border mark R,  
4 to wit, on the border line between Russian territory  
5 and Ningkuta. These three monoliths shall be newly  
6 established, and the seven wooden border marks, E, I,  
7 K, L, N, O, and P, which have hitherto existed, shall  
8 all be replaced by monoliths.

9 "3. It is now agreed that the Russian posts  
10 and civilian habitations..." I omit that paragraph 3.

11 Paragraph 7:

12 "7. There have been set up eleven new  
13 border mark monoliths up to the present, **but** each  
14 monolith is very widely separated from the other. At  
15 the intermediate places, where border lines in between  
16 are so meandering and studded with groves, or where  
17 they are indistinct, they shall be made distinct,  
18 section by section, by setting up special marks, or  
19 by digging ditches, so as to supplement the insuffi-  
20 ciency of border marks. The border marks thus set up  
21 shall have the numbers 1, 2, 3, 4, etc., inscribed  
22 in them, and shall be described, one by one, in the  
23 sectional maps to make them more detailed than the  
24 maps existing hithertofore."

25

THE PRESIDENT: Without maps these things

1 mean nothing at all to us.

2 MR. FURNESS: I am reading them because I  
3 think these establish a very vague border line, as is  
4 evidenced from the reading.

5 THE PRESIDENT: We still need maps to show  
6 where the fighting was.

7 MR. FURNESS: I am going to endeavor to  
8 supply such maps.

9 I now offer in evidence defense document  
10 No. 1510, the protocol of border lines between China  
11 and Russia on the border east of Hunchun, signed  
12 June 3, 1886.

13 THE PRESIDENT: A colleague suggests that  
14 exhibit 753 may contain one of the maps relevant to  
15 what you have just read.

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1                   THE PRESIDENT: General Vasiliev.

2                   GENERAL VASILIEV: That is just as you have  
3 told just now, your Honor. The map in which the Tri-  
4 bunal is interested is attached to exhibit 753.

5                   I object to the introduction of document 1510  
6 on the following grounds: This protocol concluded  
7 between Russia and China in 1886 for the purpose of  
8 definition of a sector of the border in the Lake Khasan  
9 area and known as the Hunchun Agreement has already  
10 been introduced by the prosecution and was marked  
11 exhibit No. 753, excerpt, and exhibit 2175, full text.

12                  The full text of the Hunchun Agreement, the  
13 photostat copy of it, was introduced by us as original  
14 in Russian because this agreement was concluded in  
15 Russian and Japanese languages.

16                  THE RUSSIAN MONITOR: Correction: And Chinese  
17 languages.

18                  GENERAL VASILIEV: Now, the defense introduces  
19 the full translation of this text into English and  
20 Japanese, but there is no need of a separate tendering  
21 of these texts in evidence. The defense can simply  
22 use the translation for their own needs.

23                  Had we known the defense would have any need  
24 for the full English and Japanese translations of this  
25 document we certainly would have prepared them ourselves.

1           MR. FURNESS: If the Court please, the defense  
2 felt that the Tribunal might also be interested in the  
3 English text. Except for a small, very short excerpt  
4 appearing in exhibit 753, neither the Tribunal nor the  
5 defense have such text.

6           This text which I am now introducing is based  
7 on the Chinese text and not on the Russian. Both, I  
8 submit, are of equal dignity before this Tribunal.

9           My plan is, if it is admitted, to read all  
10 of Article 1 except the first paragraph.

11           THE PRESIDENT: You say, I understand, that  
12 we have part only of this document in English?

13           MR. FURNESS: I do so.

14           THE PRESIDENT: Well, you have the right to  
15 place before us the balance of the English translation  
16 so far as relevant and material.

17           MR. FURNESS: There is, if your Honor please,  
18 a difference between the Chinese text and the Russian  
19 text which is essential, and, therefore, I would like  
20 to read the paragraphs which I have mentioned to point  
21 out -- so that that difference may be evident.

22           GENERAL VASILIEV: May I say a few words, sir?

23           First, the certificate attached to the defense  
24 document shows that the source of this document is not  
25 Chinese, but Japanese. Therefore, the translation was

1 made not directly from Chinese into English, but from  
2 Chinese into Japanese, then from Japanese into English.  
3 That makes this translation inadequate.

4 When we introduced this document the Tribunal  
5 was satisfied with having an excerpt from the document  
6 and didn't say otherwise. That is why we didn't pro-  
7 cess the whole of the document, that is exhibit 753.

8 But besides this the Tribunal have the full  
9 text, exhibit 2175, full copy in the Russian text,  
10 because the treaty was concluded in Russian.

11 If there is such a need we will make a full  
12 translation into English and into Japanese. But there  
13 is no need to accept a new evidence from the defense  
14 because there is no such new evidence.

15 THE PRESIDENT: Well, I can only repeat that  
16 if we have part of it in English, we should have the  
17 balance, if the defense want it in and it is relevant  
18 and material.

19 If there is any dispute later as to the accuracy  
20 of the English translation, that can be settled in the  
21 usual way by language experts.

22 Major Furness, we are unable to find in the  
23 defense document 1510 the part that corresponds to that  
24 read from exhibit 753. If we admit it, it will be  
25 because it is the balance of 753 that was read. You

1 say we have part in English; this is the balance. Show  
2 us in this the part we have already.

3 MR. FURNESS: The balance I think begins--

4 THE PRESIDENT: Observe the red light.

5 MR. FURNESS: I do wish to stress again, if  
6 your Honor please, that this is based on the Chinese  
7 text of the agreement which is not a translation of  
8 the Russian. It is equally an original.

9 If your Honor please, I can point out the  
10 part of this document which corresponds to the excerpt  
11 in exhibit 753.

12 THE PRESIDENT: Page and line of this document.

13 MR. FURNESS: The last line, the words "Proceed-  
14 ing over the hill northwestwards" continuing on through  
15 the words "where the border mark No. 2 is established."  
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1                   THE PRESIDENT: Point out the corresponding  
2 words in exhibit 753, please.

3                   MR. MURNESS: The corresponding words --  
4 shall I read the text from 1510 while the Tribunal  
5 follows the excerpt in the third paragraph of ex-  
6 hibit 753?

7                   THE PRESIDENT: General Vasiliev.

8                   GENERAL VASILIEV: May I say a few words?  
9 If the defense wishes to conform our text with  
10 their own translation let them introduce the Chinese  
11 text, because there was no Japanese text of this  
12 document, no Japanese original text of this document.

13                  We introduce the photostatic copy of the  
14 document containing all signatures and seals as they  
15 were done in 1886 -- as they were fixed in 1886 --  
16 and we are ready to take upon ourselves obligation  
17 to translate this text into English and Japanese and  
18 distribute the translation. The defense will then  
19 be able to judge the correctness of the translation  
20 in comparison with the original. The differences  
21 between our translation into English and their trans-  
22 lation into English are due to the fact that we  
23 translated this document directly from Russian into  
24 English and they translated it via the Japanese  
25 language, and that is why there are bound to be some

1 differences, but they are to blame for the differences,  
2 not we.

3 THE PRESIDENT: Well, if those differences  
4 appear you will be able to put your evidence before  
5 us in rebuttal, if not earlier, but certainly in  
6 rebuttal.

7 MR. FURNESS: Shall I proceed to read this,  
8 your Honor?

9 THE PRESIDENT: Major Furness, have you the  
10 Chinese original?

11 MR. FURNESS: I have not the original, but  
12 I believe I can produce a copy of the original in  
13 Chinese; in other words, the Chinese words.

14 THE PRESIDENT: If any difference arises, of  
15 course there will have to be a thorough examination  
16 of the originals, but as far as I am aware no dif-  
17 ference has yet arisen. General Vasiliev assumes  
18 that a difference must arise. He may be right,  
19 but at present none has arisen. I think we ought  
20 to take the hurdle as we reach it, but we do ask the  
21 defense to make available the Chinese version to  
22 the prosecution.

23 Have you compared the Russian and the  
24 Chinese descriptions?

25 MR. FURNESS: Yes, your Honor, they have

been compared.

1                   THE PRESIDENT: "With what result, according  
2 to you?

3                   MR. FURNESS: There are differences, of  
4 course, in names. I note that "Ikangtzu" in this  
5 version is, I think, the same as "gana." Further-  
6 more, in this text --

7                   THE INTERPRETER: Just a moment, Mr.  
8 Furness, please.

9                   MR. FURNESS: Look at exhibit 753, the  
10 excerpt, defense document 1510. It says: "Pro-  
11 ceeding over the hill northwestwards from the border-  
12 mark T up to the north of a sandhill via the west  
13 of Lake Khasan."

14                   THE PRESIDENT: Are you challenging exhibit  
15 753?

16                   MR. FURNESS: I must say that the fact that  
17 the Chinese text refers to "a hill" and says, "via  
18 the west of Lake Khasan," and the Russian text says,  
19 "running to the northwest cover following the line of  
20 mountains, west side of Lake Khasan," is a difference  
21 of importance.

22                   THE PRESIDENT: Then you are challenging  
23 exhibit 753. Well, the only way to solve this is  
24 to get the originals, the Chinese and the Russian,

1 if they are available, and on those and other evi-  
2 dence we shall have to make a choice or a decision.

3 MR. FURNESS: I can readily produce a  
4 copy of the Chinese text, Chinese treaty in the  
5 Chinese language, and will do so.

6 GENERAL VASILIEV: I understand it is in  
7 the following way: that the question of accepting  
8 this document is delayed until the defense will sub-  
9 mit the Chinese version of the text; is that so?

10 THE PRESIDENT: He says this is a correct  
11 English translation of the Chinese version. We  
12 should really have the Chinese version in evidence  
13 before any translation is tendered.

14 GENERAL VASILIEV: Pardon me, your Honor,  
15 but in the certificate to the defense document it is  
16 said that the translation was done from the Japanese  
17 into English, not from the Chinese. Probably they  
18 have no Chinese text at their disposal.

19 THE PRESIDENT: We realize that, General  
20 Vasiliev, but if they are going to rely on the  
21 Chinese text they must tender that first.

22 GENERAL VASILIEV: That is quite true, your  
23 Honor.

24 MR. FURNESS: I assume, if your Honor please,  
25 that I will not have to tender a great many copies

1       in Chinese. I can now tender a copy of the Chinese  
2       text which appears in pages 78 and 79, collection of  
3       border treaties between Manchukuo and the Union of  
4       Soviet Socialist Republics, compiled in July, 1943,  
5       by the Treaty Bureaus of the Foreign Office, Tokyo,  
6       page 78. At the bottom of the page appears the  
7       Chinese text. At the top of the page appears the  
8       translation into Japanese.

9           THE PRESIDENT: Well, the Japanese who made  
10       that translation must have had the Chinese copy to  
11       do it from. Where is that, that is that Chinese  
12       document?

13           MR. FURNESS: I think it must be in China,  
14       your Honor.

15           THE PRESIDENT: Well, it should be pro-  
16       curable, if it is. This is a matter of vital im-  
17       portance. The question whether there was an  
18       aggressive war turns on this.

19           MR. FURNESS: As I have said, your Honor,  
20       a copy of the Chinese version is in the Foreign  
21       Office in Chinese and appears in this book.

22           THE PRESIDENT: Well, this is an agreement  
23       between Russia and China.

25           MR. FURNESS: I would like to point out  
              that the Tribunal has already accepted a great many

1 documents in English which are based on documents  
2 originally in Japanese and Chinese and in many other  
3 languages.

4 THE PRESIDENT: Because there was no  
5 objection covering it. Here the objection is raised,  
6 and we have to deal with it.

7 MR. FURNESS: I believe that we objected  
8 to the receipt of copies in those instances, and the  
9 Court accepted them.

10 THE PRESIDENT: We would here if the  
11 original were not available.

12 MR. FURNESS: The Charter provides that  
13 copies will be accepted if not readily available,  
14 and I submit that this document in Chinese is not  
15 readily available, and that this has the authenticity  
16 of a copy.

17 THE PRESIDENT: Well, it depends upon the  
18 importance of the document and on the issue, but if  
19 this document is readily available somewhere in  
20 China we ought to have it. If it is not, you can  
21 find out almost immediately. This Court is asked to  
22 write history in its judgment, and it wants first-  
23 class materials if they are available. Our objective  
24 is complete accuracy, if we can achieve it.

25 MR. FURNESS: I submit, if your Honor please,

1 that I can't ask China to surrender her archives  
2 to us for production here.

3 THE PRESIDENT: China is represented on  
4 this Tribunal. If you apply in Chambers for an  
5 order for this document, directed to the Chinese  
6 Government, you will get that order. Or shall I  
7 say "request"? If the request is not complied  
8 with, then you will be able to use copies.

9 MR. FURNESS: Your Honor, I now make that  
10 request. I know it can't be complied with this  
11 minute, but I make it so as to avoid delay.

12 THE PRESIDENT: I could say the request  
13 was granted now. We will direct that the Chinese  
14 Government be communicated with by telegram through  
15 the Supreme Commander.

16 MR. FURNESS: The Chinese prosecutor,  
17 of course, might agree that this is an accurate  
18 copy, and I will talk with him tonight so that we  
19 may save that trouble.

20 Now, if your Honor please, I would like --  
21 I understand that we will proceed in that way.  
22 Temporarily, I will withdraw the tender.

23 We have had witnesses here all day and  
24 would like now to produce them for testimony.

25 We call as our next witness General TAMAKA,

22,713  
TANAKA

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1 who has already testified on several occasions as  
2 a witness for the prosecution.

3           ---

4 R I U K I C H I   T A N A K A, recalled as a witness  
5 on behalf of the defense, testified through  
6 Japanese interpreters as follows:

7           THE PRESIDENT: You are still on your former  
8 oath, witness.

9           Mr. Freeman.

10           MR. FREEMAN: If the Tribunal please, since  
11 the accused SATO intends to attack the credibility  
12 of this witness at a later date, we do not join in  
13 his being called as a witness.

14           MR. FURNESS: Counsel for MUTO and HASHIMOTO  
15 also do not join in calling this witness.

16           THE PRESIDENT: Does MINAMI concur?

17           MR. HOWARD: General MINAMI concurs in the  
18 calling of this witness.

19           DIRECT EXAMINATION

20           BY MR. FURNESS:

21           Q    I request that the witness be shown defense  
22 document No. 1585.

23           General TANAKA, is that your affidavit?

24           A    Yes.

25           Q    You have signed and sworn to it?

TANAKA

DIRECT

A Yes.

1 Q Are the facts stated therein true and  
2 correct?

3 A True and correct.

4 MR. FURNESS: I offer in evidence defense  
5 document No. 1585.

6 THE PRESIDENT: General Vasiliev.

7 GENERAL VASILIEV: I object to one sentence  
8 in this affidavit. In the affidavit it is said:  
9 I didn't witness the first clash, although in the  
10 order of the Commander of my Division it was said,  
11 et cetera.12 If this order has any importance it must  
13 be tendered.14 THE PRESIDENT: Yes, if the defense are  
15 relying on the contents of the order they should  
16 produce it or account for its absence.

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1                   MR. FURNESS: If the Court please, if that  
2 is a written order, it is, I understand, in Korean  
3 territory now in Russian hands.

4                   THE PRESIDENT: Russia is represented on  
5 this Court. Make the usual application.

6                   MR. FURNESS: Very well, sir. After I have  
7 read the affidavit, I would like to ask the witness  
8 questions regarding the whereabouts of the order.  
9 I will not, in those questions, make any statement  
10 regarding the contents as they appear in this affi-  
11 davit.

12                  THE PRESIDENT: The objection is upheld and  
13 the passage is deleted.

14                  MR. FURNESS: With that in mind, I shall  
15 read -- no.

16                  THE PRESIDENT: Admitted on the usual terms,  
17 subject to the deletion of those passages objected  
18 to.

19                  CLERK OF THE COURT: Defense document 1585  
20 will receive exhibit No. 2628.

21                  (Whereupon, the document above re-  
22 ferred to was marked defense exhibit No.  
23 2628 and received in evidence.)

24                  MR. FURNESS: With that in mind, I shall  
25 read the exhibit:

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"I, TANAKA, Ryukichi, after having been duly  
1 sworn according to the Japanese formula make the  
2 following statement freely and voluntarily of my own  
3 free will.

4 "At the time of the Chang-ku-feng border  
5 Incident I was commanding officer of the 25th Mountain  
6 Artillery Regiment, 19th Division, which was **part of**  
7 the Korean Army. The clash started because Soviet  
8 troops occupied the foot of a hill called Chiang-chun-  
9 feng hill both in Manchoukuo even according to the  
10 Hunchun Border Agreement. It was the Japanese conten-  
11 tion that the border ran along the western shore of  
12 Lake Hassan. The western side of Chang-ku-feng is  
13 in Manchukuo even under the Soviet contention that  
14 the border ran along the height of land. I arrived  
15 at the scene of the incident about the 15th of July,  
16 about two weeks prior to July 29. I saw the Soviet  
17 troops entrenched around the top of Chang-ku-feng Hill.  
18 The trenches were about 20 - 30 meters below the sum-  
19 mit on the western slope of the hill in Manchukuoan  
20 territory even under the Russian contention. There  
21 were also three rows of barbed wire, the first row  
22 just below the trenches and the lowest about 100 meters  
23 below the summit on the western slope. I saw about  
24 two companies of Soviet troops -- about 200 men. I do  
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1 not know whether any serious fighting had taken place  
2 prior to my arrival, and no fighting occurred at the  
3 time of my arrival. I was on the western bank of the  
4 River Tumon and could see the Manchoukuoan Territory  
5 between the river and the summit of Chiang-ku-feng.  
6 I went reconnoitering along the river and could see  
7 the Soviet troops very clearly with my binoculars  
8 which were 12 power, since the Soviet troops were  
9 only two kilometers away. Since we were informed that  
10 the Japanese Government wanted to settle the matter  
11 peacefully, I was ordered back with my troops to the  
12 town of Ranan in Korea where the Division was located  
13 and I returned to that town. I had about 400 soldiers  
14 under my command. I was ordered to return again to  
15 the spot on the 30th and arrived there at five o'clock  
16 in the morning on the 31st. When I arrived Japanese  
17 troops were attacking Chiang-chun-feng Hill which, as  
18 I have said before, is in Manchoukuoan territory even  
19 under the Russian contention."

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MR. FURNESS: Omitting the next two sentences:

"After I arrived the Japanese troops occupied areas between Chang-ke-feng and Chiang-chun-feng, going only as far as the border as contended by the Soviet Union. Reinforcements were brought up from both sides and Japanese troops maintained their position until noon of the 11th of August. Fighting stopped for good on the 11th as a result of the truce agreement which had been concluded in Moscow by Mr. SHIGEMITSU.

"The Kwantung Army was not used in the  
fighting at all although parts of it were concentrated on the border after hostilities commenced. Some reinforcements amounting to about 2,000 men were sent by the Kwantung Army to the Korean Army after hostilities commenced but they were under the command of the Korean Army. No airplanes were used by the Japanese troops and long-range cannon were used by them only during the morning of the 11th of August. Soviet troops used long-range cannon from the 29th of July on and used airplanes and long-range cannon against targets well within the interior of Japanese territory in Korea. Even places 120 kilometers within Korean territory were bom-

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barded by airplanes. The long-range cannon and airplanes did not confine themselves to military targets. I know from talks I had with Lieutenant General Suyetaka, Division Commander, that there were no plans of any kind made by the Japanese to provoke this incident to test Soviet strength and that the commanding officers of the Japanese Army were very anxious to check this incident and to prevent its developing into a general war. The Division Commander strictly ordered the Japanese detachments not to cross the border as contended by the Soviet Union and I gave this order to the soldiers in my regiment. This area is near the mouth of the River Tumen which is far away from any tactical point."

THE PRESIDENT: General Vasiliev.

GENERAL VASILIEV: Here a sentence is quoted in which the order of the division commander is mentioned. The order is not tendered. Therefore, on these grounds, I ask to delete this sentence also.

THE PRESIDENT: That may not have been a written order, I don't know. Ordinarily, a division commander would give his orders in writing.

MR. FURNESS: I will ask the witness,

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1      wher I get through, your Honor, whether it is in  
2      writing.

3            THE PRESIDENT: If it was, the rules must  
4      be complied with. Proceed to read, Mr. Furness.

5            MR. FURNESS: I do want to say that I did  
6      not intentionally violate the Court's direction and  
7      thought the prosecution's objection applied only to  
8      the passage they pointed out. (Reading)

9            "There is no railway to destroy and it is  
10     far from Vladivostok port. It is rough country  
11     where the clash took place - the border is not  
12     clearly marked by monuments."

13     BY MR. FURNESS (Continued):

14            Q      General, without stating the contents of  
15     the order, I want to ask you whether or not the  
16     order, to which you refer as having been received  
17     from the commanding general of your division with  
18     respect to where the clash took place, was a written  
19     order.

20            A      Telephonic order.

21            Q      Does the same apply to the order not to  
22     cross the border?

23            A      Yes, telephonic order.

24            MR. FURNESS: May I then read the sentence  
25     which was omitted?

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1 THE PRESIDENT: You may.

2 MR. FURNESS: "I was not present at the" --

3 THE PRESIDENT: Oh, no, he did not refer  
4 to that.

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MR. FURNESS: I think he did, your Honor. I said, "When the clash first took place." I will make certain, though.

THE PRESIDENT: That does not refer to crossing any border; the second one does.

MR. FURNESS: I asked two questions, and he answered them both "Yes". I think the first question applied specifically to the place where the clash took place.

10 THE PRESIDENT: Read the omitted parts,  
11 both of them.

12 MR. FURNESS: "I was not present at the  
13 time the first clash took place, but in the order  
14 of the Commanding General to my Division he stated  
15 that it took place on the afternoon of the 29th and  
16 that Russian troops had attacked a detachment of  
17 Japanese troops under Lieutenant Colonel Takayama  
18 which were at the foot of Chiang-chun-feng hill on  
19 its western side which, as I have said, is entirely  
20 within Manchoukuoan territory even under the Russian  
21 contention. The order of the Division Commander  
22 stated that Soviet troops had repulsed them."

23                   The second sentence was read, your Honor,  
24 and I assume, therefore, that it has not been  
25 stricken out.

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1           I now ask that the witness be shown the  
2 original of exhibit 2175, which is the map attached  
3 to exhibit 753. Copies of this map are attached to  
4 exhibit 753, which the Court already has.

5           (Whereupon, a document was handed  
6 to the witness.)

7           THE PRESIDENT: We will recess now for  
8 fifteen minutes.

9           (Whereupon, at 1445, a recess was  
10 taken until 1500, after which the proceed-  
11 ings were resumed as follows:)

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THE PRESIDENT: Major Furness.

MR. FURNESS: If the Tribunal please, since  
the map attached to exhibit 2175 is in two sections,  
I think I will ask the witness be shown this photo-  
static copy of the map which is attached to the copy  
of exhibit 753, which I have.

(Whereupon, a document was handed to  
the witness.)

BY MR. FURNESS (Continued):

O Of what is that a map?

A This is a map of the vicinity of Chang-ku-  
feng.

O I wish you to mark on that map the hill  
Chiang-chun-feng about which you have testified in  
your affidavit.

A Yes.

O Will you also mark on that map approximately  
the place where you saw the Soviet troops --

THE PRESIDENT: You had better use a colored  
pencil and mark the spot A or B, as well as surround  
it. These markings must be recorded in the trans-  
cript.

O Please mark the hill Chiang-chun-feng with the  
letters "CC."

1 A (The witness indicated on the map.)

2 Q Do you recognize Chang-ku-feng Hill?

3 THE PRESIDENT: Let the Judges see that,  
4 so that they may mark their copies if they feel so  
5 inclined.

6 MR. FURNESS: If your Honor please, I  
7 plan to have him make other marks on the map, so that  
8 we can do it all at once.

9 THE PRESIDENT: Let him make the others.

10 Q Will you mark Chang-ku-feng with the letters  
11 "CK"? Perhaps it would be best to mark it with a  
12 triangle.

13 THE PRESIDENT: What is the first place?  
14 Mark that with a square and then with a triangle,  
15 and you could have an oblong for the next, and some-  
16 thing else after that.

17 Q Now, could you indicate on the map where  
18 you saw the barbed wire and trenches, as you testi-  
19 fied, on the western slope?

20 A I have finished.

21 THE PRESIDENT: Pass it up to the bench.

22 ("Whereupon, the map was handed to the  
23 Tribunal.)

24 Yes, Major Furness.

25 MR. FURNESS: I tender that photostatic copy

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1 in evidence and suggest that it be marked exhibit  
2 753-A.

3 THE PRESIDENT: Admitted on the usual  
4 terms.

5 CLERK OF THE COURT: The copy of the map  
6 from the original exhibit 753 will receive exhibit  
7 No. 753-A.

8 ("hereupon, the document above referred  
9 to was marked defense exhibit 753-A and received  
10 in evidence.)

11 MR. FURNESS: I now tender for identifica-  
12 tion only a paper which is headed "Defense Document  
13 1584, Exhibit B" -- a photostatic copy of that paper.

14 THE PRESIDENT: Of what is it a photostatic  
15 copy?

16 MR. FURNESS: I am not tendering it in evi-  
17 dence; I am just asking it be marked for identifica-  
18 tion, and then I will ask it be shown the witness.

19 THE PRESIDENT: The witness will say what  
20 it is. I take it?

21 MR. FURNESS: He will say what certain marks  
22 on it represent in military cartography. May it be  
23 so marked for identification?

24 THE PRESIDENT: What is the Clerk of the  
25 Court going to call it? A photostatic copy of what?

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DIRECT

1                   MR. FURNESS: He can call it a photostatic  
2 copy of a sketched map.

3                   CLERK OF THE COURT: Defense document 1584  
4 will receive exhibit No. 2629 for identification  
5 only.

6                   ("hereupon, the document above refer-  
7 red to was marked defense exhibit 2629 for  
8 identification only.)

9                   THE PRESIDENT: Will you have many witnesses  
10 marking maps in this way, that is to say, the same  
11 map or copies thereof?

12                  MR. FURNESS: The original of that will be  
13 introduced into evidence later but not under the  
14 testimony of this witness.

15                  THE PRESIDENT: Each witness should mark a  
16 fresh copy to avoid confusion and suggestions.

17                  MR. FURNESS: I am not going to ask him to  
18 mark even this one. I am merely going to ask him  
19 what certain signs on it mean, as a military man.

20                  THE PRESIDENT: The Judges have no copies.

21                  MR. FURNESS: The copies will be served  
22 when the map, which is to be an attachment to another  
23 affidavit, is tendered in evidence. I wish to state  
24 again I am not tendering it into evidence. I am  
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1 merely asking that it be marked for identification  
2 and shown the witness, and that he say what certain  
3 signs mean. If the Tribunal prefers, I can call  
4 the witness later to do that if it is necessary.

5 THE PRESIDENT: Yes, you had better call  
6 him later for that purpose.

7 General Vasiliev.

8 GENERAL VASILIEV: I wanted to ask your  
9 Honor to rule that the map should not be used now.  
10 It is a sketch and it is not known by whom it is  
11 made.

12 THE PRESIDENT: Well, Major Furness antici-  
13 pated you. It is not being used yet.

14 MR. FURNESS: The prosecution may cross-  
15 examine.

16 THE PRESIDENT: General Vasiliev.

17 CROSS-EXAMINATION

18 BY GENERAL VASILIEV:

19 Q "Witness, in your affidavit you state that  
20 the clash at Khasan Lake started because the Soviet  
21 forces occupied the territory which was the object  
22 of the conflict. Did you yourself witness this event?  
23 Did you see personally the Soviet troops capture  
24 this territory?

25 A I didn't see how it was captured, but I saw

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the conditions after the capture.

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M 1 Q Then your contention that the Russians  
O 2 allegedly occupied this territory corresponds to the  
R 3 official Japanese interpretation of this event and  
S 4 you, yourself, didn't witness the event?

S 5 A The ridge of Chengkufeng Hill is very  
e 6 long. I personally saw that that ridge was occupied  
l 7 by the Soviet troops.

S 8 Q Thus I understand that you personally  
e 9 didn't witness the capture of this hill, is that so?

10 A I did not witness the actual action of  
11 capture, but as the place had been captured by the  
12 Soviet troops, I conducted a very close reconnaiss-  
13 sance into the details of the situation at a distance  
14 of two kilometers and saw Soviet troops there.

15 THE MONITOR: From three or four points.

16 A (Continuing) I also saw at a distance  
17 of about 20 to 30 meters below the summit entrench-  
18 ments, and with the binoculars of 12 power, I also  
19 saw barb wire entanglements below the trenches.

20 Q Witness, I would like to lighten your  
21 task a bit to make it easier. I put to you simple  
22 questions and I would like to get simple answers  
23 instead of lengthy statements.

24 A I understand, I will reply as briefly as  
25 possible.

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1                   Q You arrived at Changkufeng Hill at the  
2 moment when the events had already started to a  
3 certain extent and developed?

4                   A Yes.

5                   Q Thus your making or putting the circules  
6 on the map just confirmed the definite study --  
7 definite positions of the battling parties, didn't  
8 you?

9                   A I have only indicated on the map the  
10 results of my observations.

11                  Q And you, as a military man, understand  
12 certainly that during the course of the fighting some  
13 definite line could have been violated by any of these  
14 parties? Even if this line was violated by the  
15 Soviet troops that could have been explained by this  
16 fact -- could have been explained in this way?

17                  A Yes, after hostilities or fighting begins.  
18 I merely said that there were Soviet troops on the  
19 summit and I had seen trenches before the outbreak  
20 of the fighting.

22                  Q Were you, as a commanding officer of an  
23 artillery regiment, together with your unit and due  
24 to the nature of the unit, which was an artillery  
25 unit, were you directly in the first line of Japanese  
troops or at some distance from there?

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1           A I was then on the west side of the Tumen  
2 River and the front line of Japanese troops were some-  
3 what parallel to the front line of the Soviet troops.

4           THE MONITOR: Seen from the Soviet side.

5           Q Thus you were at some distance from the  
6 actual place of the conflict, weren't you?

7           THE PRESIDENT: That assumes it was an  
8 infantry battle.

9           A (Continuing) At the time when the first  
10 clash occurred I was about 200 meters in the rear  
11 from Changkufeng Hill.

12           THE PRESIDENT: That assumes that it was an  
13 infantry battle.

14           MR. FURNESS: If the Court please.

15           THE PRESIDENT: Major Furness.

16           MR. FURNESS: I think the witness' testimony  
17 shows that he was on the bank of the Tumen River  
18 about the 15th of July. That is when he saw the  
19 trenches and barb wire.

20           GENERAL VASILEV: I cant understand whom I  
21 interrogate -- Mr. Furness is giving evidence instead  
22 of the witness.

23           Q Witness, you just now considered the map  
24 attached to the Hunchun Agreement. Will you tell me,  
25 according to this map, the boundary -- does the

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1 boundary pass the western bank, along the western  
2 bank of Lake Khasan, or further to the west along  
3 the crest of the hills?

4 A It passes through the south side of  
5 Chengkufeng Hill. The north side is in Manchurian  
6 territory.

7 THE MONITOR: Northern half.

8 MR. FURNESS: I suggest, if your Honor please,  
9 the map speaks for itself.

10 O May I ask you to look at the map and  
11 tell the Tribunal whether the boundary line passes  
12 along the bank, or further to the west along the  
13 crest of the hills?

14 A Chengkufeng Hill is a very flat hill.  
15 The summit itself stretches around about 200 meters.  
16 If you see this map, the southern half of the summit  
17 is within -- if you observe this map the southern  
18 half of this summit belongs to Soviet territory and  
19 the northern part, northern half is Manchurian  
20 territory.

21 O Witness, I asked you whether the boundary  
22 line passes along the bank itself, or along the  
23 crest of the mountain? It is all very clear on the  
24 map.

25 A On the map it does not pass by the side

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CROSS

1 of Lake Khasan, but it passes through the southern  
2 half of Changkufeng Hill.

3 THE PRESIDENT: Hitherto, we have been  
4 hearing east and west and not north and south. The  
5 witness may be confusing the two.

6 Q So I understood you correctly that the  
7 boundary line passes, not along the western bank,  
8 but to the west of the bank along the crest of the  
9 mountain, to the left part of the map, is that  
10 correct? Left hand part?

11 A To be absolutely correct it passes  
12 through the center of the summit of the hill.

13 THE PRESIDENT: Well, we would like to know  
14 whether the map the witness marked shows the points  
15 of the compass.

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1 MR. FURNESS: If the Court please.

2 THE PRESIDENT: Major Furness.

3 MR. FURNESS: I believe that the prosecutor  
4 misquoted the witness. He said the boundary is shown  
5 on this map. I understand that that is all the witness  
6 is testifying to.

7 THE PRESIDENT: Well, the Court would like  
8 to have that matter cleared up. Does the map he  
9 marked show the points of the compass? If it does,  
10 will you study the map in that regard and tell us what  
11 his answer is.

12 GENERAL VASILIEV: The map is drawn up accord-  
13 ing to the usual rule. At the top of it is north, at  
14 the bottom south, to the left west, and to the right  
15 east, as it is seen from the exhibit.

16 THE WITNESS: Let me say a few words. I did  
17 not see this map before I appeared in this Tribunal  
18 and I have thought that the western half was Manchurian  
19 territory and the eastern half Soviet territory. Now,  
20 after seeing this map I see that the line runs from  
21 the summit of Changkufeng Hill from southeast to north-  
22 west, and I just said north and south in order to  
23 enable those who had perused this map generally to  
24 understand north and south. If I am to be more  
25 exact I should say northwest and southeast. That is all.

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1 GENERAL VASILIEV: Let us check it.

2 Q So the boundary line passes west of the bank  
3 of the lake along the crest of the mountains, isn't  
4 that so? Isn't that so as it is shown on the map?

5 MR. FURNESS: If the Court please.

6 THE PRESIDENT: Major Furness

7 MR. FURNESS: It seems to me a complete waste  
8 of time for this witness to testify as to where a  
9 particular line appears on a piece of paper which is  
10 before the Tribunal.

11 THE PRESIDENT: If all the writing on the map  
12 were in English we would have no difficulty in agree-  
13 ing with you, Major. But it isn't. Some of it is in  
14 Japanese. It was because we couldn't find any points  
15 of the compass indicated on the map that we asked the  
16 witness that question.

17 MR. FURNESS: I think, if your Honor please,  
18 it is in Chinese, not Japanese.

19 THE PRESIDENT: That may be too. Apparently  
20 he can read it.

21 GENERAL VASILIEV: May I say a few words, your  
22 Honor?

23 THE PRESIDENT: Yes, General.

24 GENERAL VASILIEV: The map clearly shows that  
25 the north is at the top of it, the south is the bottom,

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1 to the left is west, and to the right is east.

2 THE PRESIDENT: Well, we must have our copies  
3 in English. I am afraid copies in Chinese, Russian  
4 and Japanese will be of no assistance to us.

5 GENERAL VASILIEV: The map attached to the  
6 court exhibit which was tendered some time ago has the  
7 necessary marks indicating where the north is and where  
8 the south is, and has all the inscription or all the  
9 legends in English. I don't know how it can happen  
10 that you have no such map at your disposal now. I have  
11 several copies of that map now.

12 THE PRESIDENT: My colleagues, after careful  
13 consideration and study of the map, do not agree with  
14 you, General.

15 GENERAL VASILIEV: There is a slight misunder-  
16 standing here. Exhibit 753 has inscriptions in three  
17 languages. I have this exhibit now before me.

18 THE PRESIDENT: There are some words in English,  
19 but the points of the compass are not indicated.

20 GENERAL VASILIEV: All the names are translated  
21 into English, and other inscriptions. If I might be  
22 allowed to say, I would like to add that we separately  
23 introduced a photostat copy in Russian, but that was  
24 quite a separate copy.

25 THE PRESIDENT: Well, this case is very heavy

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1 going when we have to peruse maps. We expect you to  
2 give us the clearest maps with the names in English  
3 and also the points of the compass in English.

4 GENERAL VASILIEV: May I continue the cross-  
5 examination?

6 THE PRESIDENT: Yes.

7 BY GENERAL VASILIEV (Continued):

8 Q I ask the witness to mark with pencil lines  
9 the part of the territory between the bank of the  
10 lake and the boundary line in confirmation of the fact  
11 that precisely this territory was the object of the con-  
12 flict. May I ask you to do this, Mr. Witness?

13 A As I have said before, the line does not pass  
14 by the west of Lake Khasan but right through the middle  
15 of the summit of Changkufeng Hill, and the summit of  
16 this hill is flat and stretches a distance of about 500  
17 meters, and I should like to say that half of this  
18 summit belonged to Soviet territory and the other half  
19 to Manchukuo. Half of the area of the summit belonged  
20 to Soviet Russia and the other half to Manchukuo.

21 THE PRESIDENT: We will adjourn until half  
22 past nine tomorrow morning.

23 (Whereupon, at 1600, an adjournment  
24 was taken until Thursday, 22 May 1947, at  
25 0930.)